

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

KARSTEN ALLEN,)	
)	
Plaintiff,)	Civil Action No. 7:21cv00207
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
LARRY FIELDS,)	By: Hon. Thomas T. Cullen
)	United States District Judge
Defendant.)	

Plaintiff Karsten Allen, a Virginia inmate proceeding *pro se*, filed this civil action under 42 U.S.C. § 1983. The only remaining claims in this case are that defendant Fields retaliated and used excessive force against Allen.¹ On September 25, 2023, the defendant filed a second motion for summary judgment,² arguing that Allen failed to exhaust available administrative remedies as to his retaliation claim before filing this action, and that Allen’s allegation of retaliation nevertheless failed on its merits. (*See* ECF No. 55.) On September 26, 2023, the court issued a notice pursuant to *Roseboro v. Garrison*, 528 F.2d 309, 310 (4th Cir. 2005). (ECF No. 58.) The *Roseboro* notice gave Allen 21 days to file a response to the motion and advised him that, if he did not respond to the defendant’s motion, the court would “assume that Plaintiff has lost interest in the case, and/or that Plaintiff agrees with what the Defendant states in their responsive pleading(s).” (*Id.*) The notice further advised Allen that, if he wished to continue with the case, it was “necessary that [he] respond in an appropriate fashion,” and

¹ By Memorandum Opinion and Order entered September 27, 2022, the court granted a motion to dismiss other claims and defendants from this case. (*See* ECF Nos. 46 & 47.)

² By Memorandum Opinion and Order entered August 14, 2023, the court denied defendant Field’s first motion for summary judgment. (*See* ECF Nos. 46 & 47.)

that if he failed to file a response to the motion within the time allotted, the court “may dismiss the case for failure to prosecute.” (*Id.*)

On October 26, 2023, the court received Allen’s motion for an extension of time to respond to the defendants’ motion. (ECF No. 66.) On October 31, 2023, the court granted Allen’s motion, giving him 21 days from that date to respond to the defendant’s motion. To date, Allen has not responded to the motion and, therefore, the court will dismiss this case without prejudice for failure to prosecute.

The Clerk is directed to send copies of this Memorandum Opinion and the accompanying Order to the parties.

ENTERED this 4th day of December, 2023.

/s/ Thomas T. Cullen
HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE